

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CURTIS PEDERSON,

Plaintiff,

v.

NOVARTIS PHARMACEUTICALS  
CORPORATION,

Defendant.

Case No. 3:20-CV-05216-RBL

DECLARATION OF JENNIFER L.  
CAMPBELL IN SUPPORT OF  
DEFENDANT NOVARTIS  
PHARMACEUTICALS  
CORPORATION'S MOTION TO  
DISMISS OR, IN THE ALTERNATIVE,  
MOTION FOR MORE DEFINITE  
STATEMENT AND MEMORANDUM  
OF LAW IN SUPPORT

**NOTE ON MOTION CALENDAR:  
MAY 8, 2020**

I, Jennifer L. Campbell, hereby certify and declare as follows:

1. I am an attorney of record representing Defendant Novartis Pharmaceuticals Corporation ("Defendant") in the above-captioned matter. I am over the age of eighteen (18) and otherwise competent to testify to the facts stated herein. I make this declaration based on my review of the documents provided in this litigation.

2. Attached as Exhibit 1 is a true and correct copy of a March 12, 2015 medical record of plaintiff from Oregon Health & Science University.

3. Attached as Exhibit 2 is a true and correct copy of a May 21, 2018 medical record of plaintiff from Oregon Health & Science University.

DECLARATION OF JENNIFER L. CAMPBELL IN SUPPORT OF  
DEFENDANT NOVARTIS PHARMACEUTICAL CORPORATION'S  
MOTION TO DISMISS: CASE NO. 3:20-CV-05216-RBL- 1

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys at Law  
1420 5th Avenue, Suite 3400  
Seattle, WA 98101-4010  
Telephone: 206-622-1711

Dated this 10<sup>th</sup> day of April, 2020.

/s/ Jennifer L. Campbell  
Jennifer L. Campbell, WSBA #31703

PDX\119685\163329\JCA\27716722.1

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys at Law  
1420 5th Avenue, Suite 3400  
Seattle, WA 98101-4010  
Telephone: 206-622-1711

# Exhibit 1



3181 S W Sam Jackson Park  
Road  
Mailcode: OP17A  
University Hospital South  
Portland OR 97239-3011  
Individual Notes

Pederson, Curtis R  
MRN: [REDACTED], DOB: [REDACTED], Sex: M  
Encounter date: 3/12/2015

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**Addendum Note by Michael D Dellinger, MD at 03/17/15 1408 (continued)**

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Modules accepted: Level of Service

Electronically Signed by Michael D Dellinger, MD 03/17/15 1408

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**Progress Notes by Michael Heinrich, MD at 04/06/15 1332**

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Author: Michael Heinrich, MD

Service: (none)

Author Type: Physician

Filed: 04/09/15 2106

Encounter Date: 4/6/2015

Status: Signed

Editor: Michael Heinrich, MD (Physician)

**Medical Oncology Clinic**

Primary Care Provider: Albert Dipiero, MD  
Referring Provider: Michael J Mauro, MD  
MEMORIAL SLOAN KETTERING CANCER CENTER  
1275 YORK AVE  
BOX 489  
NEW YORK, NY 10065

**SUBJECTIVE:** Mr. Pederson is a 68-year-old male with chronic-phase CML, currently on third-line therapy with nilotinib. His current nilotinib dose is 300 mg once daily.

**INTERVAL HISTORY:** Since last being seen 3 months ago, the patient has had several cerebellar strokes and was hospitalized in the Legacy Health Care System. These were manifested by loss of balance, falling to the ground episodes. The patient had previously been on aspirin, but was started on clopidogrel following these episodes. These episodes were several weeks ago. He has not had any repeat episodes since then. He has been taking the nilotinib without any incident. He denies nausea, vomiting, diarrhea. He has noted decreased hair on his arms and legs and back since being on nilotinib. He denies nausea, vomiting, diarrhea. No peripheral edema. No skin rash. The patient has been losing weight as he has now adopted a vegan plus fish diet. His blood pressure medications were also adjusted following his stroke.

**IMPRESSION:** Chronic-phase chronic myelocytic leukemia. His laboratory studies from last week showed no evidence of pancreatic or liver toxicity. His creatinine was noted to be elevated at 1.8, and his potassium which has been elevated over the last month or so was also elevated at 5.8. We will recheck his creatinine and potassium today. I will follow up with Dr. Dipiero. His EKG shows no evidence of toxicity. His PCRs have been undetectable, although the 1 drawn most recently is still pending.

**PLANS:**

1. Recheck creatinine and potassium today.
2. Continue nilotinib 300 mg once daily.
3. Follow up on PCR result from today.
4. Return to clinic in 3 months for toxicity check, laboratory testing and PCR testing at that time.

Results for PEDERSON, CURTIS R (MRN 06005733) as of 4/6/2015 13:31

	Ref.	12/12/201	3/12/2014	3/12/2014	6/18/2014	7/22/2014	9/15/2014	12/19/201
	Range	3 07:35	07:26	07:26	07:10	11:29	07:07	4 07:16



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**Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)**

BCR-ABL (INTERNAL SCALE)	No range found	Undetecte d		Undetecte d	Undetecte d	Undetecte d	Undetecte d	Undetecte d
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**Problem List:**

**Patient Active Problem List**

**Diagnosis**

- Essential hypertension
- ELEVATED PSA
- LOC OSTEOARTH NOS-HAND
- Intrinsic Asthma, Unspecified
- Tracheomalacia
- FCHL (familial combined hyperlipidemia)
- Central Obesity
- Graves Disease
- Multinodular Goiter
- Fever, Recurrent
- Other Dyspnea and Respiratory Abnormality
- CML (Chronic Myeloid Leukemia)
- Hyperopia
- Regular Astigmatism
- Presbyopia
- Benign neoplasm of skin of trunk, except scrotum
- Myalgia
- Type II or unspecified type diabetes mellitus without mention of complication, not stated as uncontrolled
- Linear morphea
- Tinea pedis
- Tinea unguium
- CAD (coronary artery disease)
- Type 2 diabetes mellitus
- Stroke, acute, within 8 weeks

**Previously Obtained Historical Data**

**PMH:**

**Past Medical History**

**Diagnosis**

Date

- Other and unspecified hyperlipidemia  
*On treatment since 2005*
- Unspecified essential hypertension  
*On treatment since 2006.*



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#### Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)

- High triglycerides
- Obesity
- CML (chronic myelocytic leukemia)
- Tracheomalacia, congenital 2011  
*Will pass out with coughing, Controlled with cough suppressants.*
- CAD (coronary artery disease) 11/14/13  
*Cath Nov 2013 - Mid LAD myocardial bridge. D1 70% stenosis. RCA 40% mid and 70% PLV stenosis. Not amenable to PCI. MEd management.*
- Diabetes mellitus  
*HbA1c Jan 2014 - increased from 6.1 in Aug 2013 to 7.4 in Jan 2014*

#### PSH:

##### Past Surgical History

Procedure	Laterality	Date
<ul style="list-style-type: none"> <li>• Inguinal hernia repair</li> <li>• Laproscopic gallbladder</li> <li>• Tonsil and adenoidectomy</li> <li>• Hx removal benign leg tumor</li> </ul>		

#### FH:

##### Family History

Problem	Relation
• Stroke	Sister
• Stroke	Mother
• Cancer	Mother
<i>Uterine</i>	
• Heart Disease	Brother
<i>CHF</i>	
• Diabetes	Brother
<i>Type 1</i>	
• Heart Disease	Father
<i>Angina in 70's, pipe smoker</i>	
• Cancer	Father
<i>Colon</i>	
• Glaucoma	Father
• Cancer	Brother
<i>Colon</i>	
• Cancer	Daughter
<i>Cervical</i>	

#### Social:

##### History

Social History
• Marital Status: Married



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#### Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)

Spouse Name: N/A  
Number of Children: N/A  
• Years of Education: N/A

#### Occupational History

- Not on file.

#### Social History Main Topics

- Smoking status: Never Smoker
- Smokeless tobacco: Never Used
- Alcohol Use: Yes  
*Comment: rare*
- Drug Use: No
- Sexual Activity: Not on file

#### Other Topics

Concern

- Not on file

#### Social History Narrative

*Works at Oregon State University in Information Technology;  
deeply involved with the "One Child One Laptop" Project.  
Wife lives in Washington, so he commutes to and from Albany multiple times per week.*

*CAROTID EXAMINATION: 03/10/2015 - IMPRESSION: Abnormal study. On the right there is 50-79% stenosis of the internal carotid artery, less than 70%, and greater than 50% stenosis of the external carotid artery associated with a large amount of plaque at the bifurcation. At the left carotid bifurcation there is a large amount of plaque at the carotid bifurcation with less than 50% stenosis in the internal carotid artery, greater than 50 stenosis of the external carotid artery. Vertebral artery examination was normal on both sides.*

ROS: 10 system ROS o/w negative except as noted above. See scanned written ROS form from today's visit. ROS form reviewed with patient.

#### Meds:

#### Current Outpatient Prescriptions

##### Medication

##### Sig

- aspirin EC 81 mg Oral Tablet, Delayed Release (E.C.) Take 1 Tab by mouth once daily.



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**Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)**

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- |  |  |
|--|--|
| • AVODART 0.5 mg oral capsule                            | TAKE ONE CAPSULE BY MOUTH EVERY DAY  |
| • benzonatate (TESSALON PERLES) 100 mg Oral capsule      | Take 1 Cap by mouth three times daily.   |
| • carvedilol 6.25 mg oral tablet                         | Take 1 tablet by mouth two times daily. Administer with food.  |
| • clopidogrel 75 mg oral tablet                          | Take 1 tablet by mouth once daily.   |
| • codeine-guaiFENesin 10-200 mg/5 mL Oral Liquid         | Take 5 mL by mouth every eight hours as needed.  |
| • FISH OIL 1,000 mg Oral Capsule                         | 1 cap daily  |
| • FLUTICASONE 50 mcg/actuation nasal spray,suspension    | PLACE TWO SPRAYS IN EACH NOSTRIL TWICE DAILY   |
| • levothyroxine 137 mcg oral tablet                      | Take 1 tablet by mouth once daily. Indications: HYPOTHYROIDISM   |
| • lisinopril 10 mg oral tablet                           | Take 1 tablet by mouth two times daily. Indications: HYPERTENSION  |
| • metFORMIN SR 500 mg oral tablet extended release 24 hr | Take 2 tablets by mouth once daily. Administer with evening meal.  |
| • MULTIPLE VITAMINS OR                                   | q.d.   |
| • nilotinib 150 mg oral capsule                          | Take 2 capsules by mouth once daily. Indications: Chronic Myelocytic Leukemia Accelerated Phase  |
| • PREDNISONE 10 mg oral tablet                           | TAKE 4 TABLETS BY MOUTH DAILY FOR 5 DAYS, THEN TAKE 2 TABLETS DAILY FOR 5 DAYS, THEN TAKE 1 TABLET DAILY FOR 5 DAYS.                       |
| • rosuvastatin 20 mg oral tablet                         | Take 1 tablet by mouth once daily.   |
| • tadalafil (CIALIS) 5 mg oral tablet                    | Take 1 tablet by mouth once daily as needed. Not to exceed more than once daily. Indications: BENIGN PROSTATIC HYPERTROPHY                 |
| • TAMSULOSIN 0.4 mg oral capsule,extended release 24hr   | TAKE ONE CAPSULE BY MOUTH EVERY DAY  |
| • tretinoin 0.025 % topical cream                        | Apply to affected area every other day. Apply to affected area every other night and continue to taper down to only weekend use as needed. |
| • triamcinolone acetone 0.1 % topical cream              | Apply to affected area three times daily. Apply thin film to affected areas.   |
| • triamterene-hydrochlorothiazide 50-25 mg oral capsule  | Take 1 capsule by mouth once daily.  |

No current facility-administered medications for this visit.

Vitals: There were no vitals taken for this visit. Pain Score:

ECOG=0

General: Well developed, well nourished patient. Neuro: Alert and oriented x 3. Gait normal. Gaze conjugate. HEENT: No scleral icterus. Neck: No thyroid masses or tenderness. LN: No cervical, supraclavicular, axillary or inguinal lymphadenopathy. Chest: clear to auscultation and percussion. Heart: No increased JVD. Normal





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Encounter date: 4/6/2015

**Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)**

S1, S2. No murmur, rub of gallop. Abdomen: Normal BS, non-tender. No hepatosplenomegaly. No abdominal masses. Extremities: No clubbing, cyanosis or edema. Skin: No rashes, petechiae, or purpura.

**Labs:**

No visits with results within 1 Week(s) from this visit.

Latest known visit with results is:

**Lab on 03/30/2015**

Component	Date	Value
• AMYLASE, PLASMA	03/30/2015	64
• GLUCOSE, PLASMA (LAB)	03/30/2015	148*
• BUN, PLASMA (LAB)	03/30/2015	37*
• CREATININE PLASMA (LAB)	03/30/2015	1.79*
• EGFR AFRICAN- AMERICAN	03/30/2015	46*
• EGFR NON AFRICAN-AMERICAN	03/30/2015	38*
• SODIUM, PLASMA (LAB)	03/30/2015	130*
• POTASSIUM, PLASMA (LAB)	03/30/2015	5.8*
• CHLORIDE, PLASMA (LAB)	03/30/2015	101
• TOTAL CO2, PLASMA (LAB)	03/30/2015	23
• CALCIUM, PLASMA (LAB)	03/30/2015	9.0
• BILIRUBIN TOTAL	03/30/2015	1.0
• TOTAL PROTEIN, PLASMA (L*)	03/30/2015	6.9
• ALBUMIN, PLASMA (LAB)	03/30/2015	3.5
• ALK PHOS	03/30/2015	104
• AST(SGOT)	03/30/2015	20
• ALT (SGPT)	03/30/2015	26
• ANION GAP(ALB CORRECTED)	03/30/2015	7
• POTASSIUM CMNT	03/30/2015	No Hemo
• BILI T CMNT	03/30/2015	No Hemo
• AST CMNT	03/30/2015	No Hemo
• ANION GAP	03/30/2015	6
• MAGNESIUM, PLASMA	03/30/2015	2.5
• PHOSPHORUS, PLASMA (LAB)	03/30/2015	3.4
• URIC ACID, PLASMA (LAB)	03/30/2015	6.0
• BILIRUBIN DIRECT	03/30/2015	0.3
• BILI D CMNT	03/30/2015	No Hemo
• LD TOTAL, PLASMA	03/30/2015	139
• LD CMNT	03/30/2015	No Hemo
• LIPASE (LAB)	03/30/2015	344
• WHITE CELL COUNT	03/30/2015	6.49
• RED CELL COUNT	03/30/2015	4.46*
• HEMOGLOBIN	03/30/2015	11.4*
• HEMATOCRIT	03/30/2015	35.7*
• MCV	03/30/2015	80.0
• MCHC	03/30/2015	31.9
• RDW SD	03/30/2015	42.5
• PLATELET COUNT	03/30/2015	236
• MPV	03/30/2015	9.2*



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**Progress Notes by Michael Heinrich, MD at 04/06/15 1332 (continued)**

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• NRBC%	03/30/2015	0.0
• NRBC#	03/30/2015	0.00
• NEUTROPHIL %	03/30/2015	67.1
• LYMPHOCYTE %	03/30/2015	17.1*
• MONOCYTE %	03/30/2015	10.3*
• EOS %	03/30/2015	4.2*
• BASO %	03/30/2015	0.8
• IMMATURE GRANULOCYTE%	03/30/2015	0.5
• NEUTROPHIL #	03/30/2015	4.36
• LYMPHOCYTE #	03/30/2015	1.11
• MONOCYTE #	03/30/2015	0.67
• EOS #	03/30/2015	0.27
• BASO #	03/30/2015	0.05
• IMMATURE GRANULOCYTE#	03/30/2015	0.03

Imaging: No images are attached to the encounter.

The patient received education about their disease--including education on management and f/u of their disease.

I discussed the results of the toxicity and efficacy lab monitoring test results with the patient.

Electronically Signed by Michael Heinrich, MD 04/09/15 2106

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**Progress Notes by Michael Heinrich, MD at 07/06/15 1356**

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Author: Michael Heinrich, MD

Service: (none)

Author Type: Physician

Filed: 07/07/15 1613

Encounter Date: 7/6/2015

Status: Signed

Editor: Michael Heinrich, MD (Physician)

Medical Oncology Clinic

Primary Care Provider: Albert Dipiero, MD

Referring Provider: Michael J Mauro, MD

MEMORIAL SLOAN KETTERING CANCER CENTER

1275 YORK AVE

BOX 489

NEW YORK, NY 10065

**SUBJECTIVE:** Mr. Pederson is a 69-year-old male with chronic-phase CML, currently on third-line treatment with nilotinib at a dose of 300 mg per day. Patient developed resistance on imatinib and was intolerant of bosutinib.

**INTERVAL HISTORY:** Since last being seen 3 months ago, the patient has continued to do well. He previously had some diarrhea potentially attributable to the nilotinib, but this is improved with the use of fiber. He denies nausea or abdominal pain. No shortness of breath, cough or chest pain. No skin rash. No peripheral edema. The patient has a history of stroke, but no recent symptoms of TIA or stroke. The patient

# Exhibit 2



3181 S W Sam Jackson Park  
Road  
Mailcode: OP17A  
University Hospital South  
Portland OR 97239-3011  
HIM ROI Orders/Results

Pederson, Curtis R  
MRN: [REDACTED] DOB: [REDACTED], Sex: M  
Encounter date: 5/21/2018

POTASSIUM, POC	4.7	3.4 - 5.0 mmol/L	—	42
TOTAL CO2, POC	23	22 - 29 mmol/L	—	42
CHLORIDE, POC	108	97 - 108 mmol/L	—	42
GLUCOSE, POC	108	70 - 99 mg/dL	H	42
CALCIUM TOTAL, POC	9.7	8.6 - 10.2 mg/dL	—	42
BUN, POC	37	6 - 20 mg/dL	H	42
CREATININE, POC	1.6	0.7 - 1.3 mg/dL	H	42
ALK PHOS, CMP POC	70	43 - 92 U/L	—	42
ALT, CMP POC	33	0 - 60 U/L	—	42
AST, CMP POC	32	0 - 41 U/L	—	42
BILIRUBIN TOTAL, CMP POC	0.8	0.3 - 1.2 mg/dL	—	42
ALBUMIN, CMP POC	3.7	3.5 - 4.7 g/dL	—	42
PROTEIN TOTAL, CMP POC	6.8	6.1 - 7.9 g/dL	—	42

## Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
<b>42 - Unknown</b>	OHSU - MARQUAM HILL, POINT OF CARE TESTS	Unknown	3181 SW. SAM JACKSON PARK ROAD PORTLAND OR 97239-3098	03/31/10 1531 - Present

## Order Information

Date and Time 5/21/2018 8:43 AM	Department Center for Hematologic Malignancies at Multnomah Pavilion	Ordering/Authorizing Michael Heinrich, MD
Release Date/Time None	Start Date/Time 5/21/2018	End Date/Time None

## Order Providers

Authorizing Provider Michael Heinrich, MD	Encounter Provider CHM MA	Billing Provider Michael Heinrich, MD
--	------------------------------	--

## Associated Diagnoses

Diagnosis Description <b>CML (chronic myeloid leukemia) (HCC)</b>	ICD10 C92.10
--	-----------------

Resulted: 03/13/15 1101, Result status: Final  
result

## MRI STROKE BRAIN WO CONTRAST [125727524]

Resulted by: Arzu Ozturk, MD  
Accession number: 17877317

Performed: 03/13/15 0705 - 03/13/15 0705

## Components

Component	Value	Reference Range	Flag	Lab
MR STROKE BRAIN WITHOUT CONTRAST	--	—	—	31
Result: EXAM: MRI brain without contrast				

**CERTIFICATE OF SERVICE**

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on the 10<sup>th</sup> day of April, 2020, I arranged for service of the foregoing DECLARATION OF JENNIFER L. CAMPBELL IN SUPPORT OF DEFENDANT NOVARTIS PHARMACEUTICALS CORPORATION'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT AND MEMORANDUM OF LAW IN SUPPORT to the parties to this action via the Court's CM/ECF system as follows:

Brad J. Moore, WSBA #21802  
Email: [brad@stritmatter.com](mailto:brad@stritmatter.com)  
STRITMATTER KESSLER  
WHELAN KOEHLER MOORE  
3600 15<sup>TH</sup> Ave., W., Ste. 300  
Seattle, WA 98119  
Phone: (206) 448-1777

*Attorneys for Plaintiff*

/s/ Jennifer L. Campbell  
Jennifer L. Campbell, WSBA #31703